



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. MULL,
ATTORNEY GENERAL

RC1274

March 4, 1976

Dr. Lorene Rogers, President
The University of Texas at Austin
Austin, Texas 78712

Open Records Decision No. 120

Re: Whether a student
may see his Ph.D. qual-
ifying examination and
evaluations.

Attention: W.O. Shultz

Dear Dr. Rogers:

You ask whether certain information requested by a student is excepted from disclosure to him. The information consists of the student's Ph.D. qualifying examination answers, the grades and evaluations of this examination, and the evaluations of the corresponding oral examination. In addition, the student requests access to a draft letter concerning his request to retake the examinations.

In regard to the examination evaluations, it is apparently your contention that they are merely personal notes of the faculty members involved, like those which we held were not subject to disclosure under the Open Records Act, article 6252-17a, V.T.C.S., in Open Records Decision No. 77 (1975). In that Decision, we said: "[T]he Open Records Act does not reach the personal notes of an individual employee in his sole possession and made solely for his own use." The evaluations in this case are clearly distinguishable from such personal notes. As we understand the committee evaluation process you describe, it appears that all members of the committee consider the written grades and evaluations of the other members in reaching a consensus decision, and in this case, all of the materials were retained by the chairman of the committee. The information here was neither made solely for each committee member's own use, nor kept in his sole possession. It is not the type of information dealt with in Open Records Decision No. 77 (1975).

We have said that "student records" as used in section 3(a)(14) of the Act include teacher or counselor ratings and observations and test scores. Attorney General Opinion H-447 (1974). It is our opinion that this includes documents concerning a student's written Ph.D. qualifying examination answers and grades and corresponding oral examination evaluations and that this information should be made available to the student.

The other information requested by the student is a draft of a letter concerning his request to retake his examinations.

The student involved here was refused admission to candidacy for the Ph.D. He petitioned the committee to reconsider his application for the third time, and they denied his petition by letter. The student's graduate advisor had prepared two draft letters for the committee's consideration, one draft approving the petition, and another denying it. The committee approved the draft denial letter and directed the graduate advisor to send it to the student.

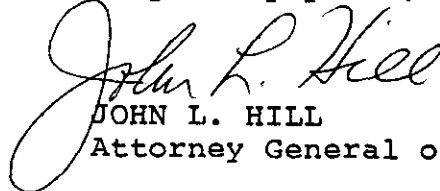
The graduate advisor kept the draft acceptance letter, which was rejected by the committee, and it has been requested by the student. You contend that it is not information collected, assembled, or maintained by the University within the meaning of section 3(a), and in the alternative, that it is excepted from disclosure by section 3(a)(11).

From the facts you have presented, it appears the letter was prepared for the committee's consideration and that it was presented to them and rejected. Assuming this is true, it appears the letter is "information" within the meaning of section 3(a) of the Act, as well as an "education record" within the meaning of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g. While section 3(a)(11) might except the draft letter from disclosure to a member of the general public, we do not believe the exception is effective in the case of a student asserting his individual interest in the record under section 3(a)(14). See Open Records Decision No. 55 (1974).

The Honorable Lorene Rogers - page 3 (ORD-120)

Accordingly, it is our decision that the examination materials and evaluations and the draft letter rejected by the committee are required to be revealed under section 3(a)(14) as student records.

Very truly yours,



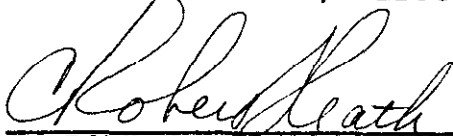
JOHN L. HILL

Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

jwb